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NORTH CAROLINA
Environmental Quality

May 12, 2021

TO: DEQ-DWR-Wetlands-Public Listserv

FROM: Paul Wojoski, 401 & Buffer Permitting Branch ^{DS}
PW

RE: Notice of Complete Application and Finding of Fact for Authorization Certificate with Major Exception pursuant to Neuse River Riparian Area Protection Rules - 15A NCAC 02B .0714 and 15A NCAC 02B .0611

PUBLIC NOTICE is hereby given that on April 15, 2021, a request was received by the Division of Water Resources to grant a Major Exception from the Neuse Riparian Area Protection Rules (15A NCAC 02B .0714 and 15A NCAC 02B .0611) to Mr. Ron Kopplin (Martin Marietta Materials 2700 Wycliff Road, Raleigh, NC) for the construction of an overburden storage area consisting of berms and an expansion of an existing berm at the Martin Marietta Raleigh-Durham Quarry, Raleigh, NC. The proposed project would permanently impact 35,716 square feet of Zone 1 of the buffer and 24,164 square feet of Zone 2 of the buffer. To mitigate the buffer impact in accordance with 15A NCAC 02B .0611 (b)(1)(I), the applicant proposes to utilize the Division of Mitigation Services In-Lieu Fee Program. Based on the information submitted, Division of Water Resources provides the below preliminary findings pursuant to 15A NCAC 02B .0611 (c)(3)(C) DWR proposes to take final action on the application June 13, 2021.

Preliminary findings pursuant to 15A NCAC 02B .0611 (b)(2) and (c)(1)

The applicant has demonstrated to the Division's satisfaction that the project meets all the criteria specified in 15A NCAC 02B .0611 (b)(2).

The Division finds the following pursuant to 15A NCAC 02B .0611 (c)(1).

- (A) There are practical difficulties or unnecessary hardships that prevent compliance with the riparian buffer protection requirements.

In 2018 Westgate Road was realigned to allow the quarry to expand to the north. Overburden was removed to expand the quarry pit. Overburden that could not be sold was moved to the current berm footprint. Current storage area has been exhausted. The quarry has reached a point where the north side of the pit will need to be abandoned if more overburden is not removed, limiting the operational life of the quarry. Currently, trucks move overburden under Westgate Road to an existing berm. The current proposal includes three new overburden storage berms and an expansion of the current berm. The existing berm is



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shaped in such a way to avoid stream and buffer impacts. Expanding this existing berm to the south adds storage and allows the berm to be built higher in the middle.

- (B) If the applicant complies with the provisions of this Rule, he or she can secure no reasonable return from, nor make reasonable use of, his or her property. Merely proving that the Authorization Certificate with Exception would allow a greater profit from the property shall not be considered adequate justification for an Authorization Certificate with Exception.

In 2013, Martin Marietta obtained a Jurisdictional Determination from the US Army Corps of Engineers to avoid wetland and stream impacts associated with plans to move Westgate Road north to expand the quarry footprint. Overburden was removed to expand the quarry pit, but the current storage area has been exhausted. If current overburden is not removed a portion of the quarry pit will need to be abandoned, shortening the operational life of the site. Alternative sites to store overburden are limited or unavailable around the quarry.

Moreover, the Authority shall consider whether the Authorization Certificate with Exception is the minimum possible deviation from the terms of this Rule that shall make reasonable use of the property possible;

The Division believes proposal is a minimal deviation from the rule.

- (C) The hardship is due to the physical nature of the applicant's property, such as its size, shape or topography;

Avoiding the buffer zones around Stream A has limited the current berms capacity to store overburden. Impacting the buffer zones of Stream A will allow expansion of the pinched middle area in the berm.

- (D) The applicant did not cause the hardship;

The applicant did not.

- (E) The requested Authorization Certificate with Exception is in harmony with the general spirit purpose and intent of the State's riparian buffer protection requirements, will protect water quality, will secure public safety and welfare, and will preserve substantial justice.

Mitigation for buffer impacts will be satisfied using the Division of Mitigations In-Lieu Fee Program. Stormwater management will be addressed in compliance with the City of Raleigh's delegated program. Stream impacts are subject to Section 401 Water Quality Certification which will ensure standard compliance. Due to these factors the Division believes that the proposal is in harmony with the general spirit and intent of the State's riparian buffer protection requirements, will protect water quality, will secure public safety and welfare, and will preserve substantial justice.

The application is available online at:

<https://edocs.deq.nc.gov/WaterResources/DocView.aspx?id=1720569&dbid=0&repo=WaterResources&searchid=bf66589c-e3d4-4540-9d3e-013d33996e0c>



Contact Beverly Strickland (919-707-8789) for assistance with the website. The application is also on file at the DWR Central Office and may be inspected with an appointment between 8 a.m. & 5 p.m. at 512 N. Salisbury St., Raleigh, NC, 27604. For questions or to schedule an appointment, contact Rick Trone at Rick.Trone@ncdenr.gov.

This notice is available electronically at: <https://deq.nc.gov/about/divisions/water-resources/water-quality-permitting/401-buffer-permitting-branch/public-notices>



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